United Nations S/AC.44/2004/(02)/52

Security Council

Distr.: General
10 January 2005

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of Italy to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Italy to the United Nations presents its compliments to the Chairman of the Committee and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the first report of the Government of Italy in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

04-67232 (E) 020205

Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Italy to the United Nations addressed to the Chairman of the Committee

Italian national report on the implementation of Security Council resolution 1540 (2004)

Italy welcomes the adoption of UNSC Resolution 1540, which is in line with the 2003 EU Strategy against the proliferation of weapons of mass destruction, and supports the goal to prevent non state actors from acquiring WMDs and their means of delivery. Italy is deeply engaged, at the national level as well as in multilateral frameworks, to effectively tackle this threat to international peace and security.

Well before the adoption of Resolution 1540, Italy has adopted and enforced a range of legislative and administrative measures ensuring compliance with provisions of the above resolution.

Consistently with its international obligations in the specific field, Italy regularly reviews and updates, when necessary, its national legislative framework related to disarmament and non-proliferation.

Therefore, Italy fully supports the work of the Committee of the Security Council established pursuant to Resolution 1540 in promoting global implementation of this Resolution, including – where appropriate – through providing assistance or advice to States Parties.

The multilateral framework

Italy is a party to all multilateral instruments in the field of disarmament and non-proliferation, including the Treaty on Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC).

Italy has ratified the Comprehensive Test-Ban Treaty (CTBT), is a party to the Convention on the Physical Protection of Nuclear Materials (CPPNM) and has adopted the Additional Protocol to the IAEA Comprehensive Safeguards Agreement, which entered into force on 30 April 2004. Italy has adhered to HCOC since its launching Conference.

Consistently with the EU Strategy against the proliferation of WMDs, adopted by the European Council in December 2003, under the Italian Presidency, Italy is committed to the universalization and full implementation of the above instruments, as well as to supporting relevant international bodies and organisations

charged with verification and upholding of compliance with these treaties and conventions. Italy also supports the establishment - where necessary - of additional verification mechanisms and institutions.

Italy is also member of all the export control regimes for dual-use goods and technology: Australia Group (AG), Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), the Wassenaar Arrangement (WA) and the Zangger Committee (ZC). These regimes play an important role as they introduce measures to ensure that exports of sensitive materials, equipment and technologies are subject to appropriate surveillance and control.

Finally, Italy actively participates in the "Proliferation Security Initiative" (PSI) since its launching in May 2003. PSI is aimed at helping prevention and interdiction of illegal procurement and trafficking activities in WMDs and related materials and technology. In this framework, Italy had organized the air interdiction exercise "Air Brake" (Trapani, Sicily, February 2004) and the maritime interdiction exercise "Clever Sentinel" (Siracusa, Sicily, April 2004).

The European framework

At Thessaloniki, in June 2003, the European Council, recognizing the proliferation of WMDs and their means of delivery as a growing threat to international peace and security, adopted a Declaration on non-proliferation of WMDs. The Declaration also stated that the risk that terrorists would acquire chemical, biological radiological or nuclear materials adds a new dimension to that threat.

During the Italian Presidency, in November 2003, the EU also adopted a Common Position on the universalization and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and their means of delivery: NPT, CWC, BTWC, as well as the IAEA Additional Protocols and HCOC.

In November 2003 a Decision was also adopted to mainstream non-proliferation policies into the EU wider relations with third countries. In this respect, the EU is currently negotiating the inclusion of a non-proliferation clause in the agreements with third countries.

Finally, the European Council adopted in December 2003, under the Italian Presidency, the Strategy against proliferation of weapons of mass destruction, which includes a commitment to universalize and strengthen the relevant treaties and agreements, as well as to uphold the principle of compliance verification.

Consistently with the position stemming from the aforementioned documents, the EU is engaged to foster the role of the UN Security Council and enhance its expertise in meeting the challenge of proliferation.

Italy is now actively contributing to fostering implementation of the above provisions. In areas related to EU competence and relevant for Resolution 1540 (inter alia accounting and security of production, use, storage and transport of WMD related materials within the EU, physical protection of nuclear material, customs regimes for import/export of dual use items) reference is also made to the EU Report to be transmitted to the Special Committee separately. Therefore, the Italian National Report should be read in conjunction with the EU Report.

The Italian legislative framework

Italian legislation already has a wide range of legislative measures to prevent the proliferation of WMDs, their means of delivery and related materials.

Armaments, including WMDs

Italian Law 9 July, 1990 n. 185 sets the fundamental national principles and rules for export, import and transit of armaments.

Nuclear weapons

Italy ratified the NPT with Law 24 April, 1975, n.131.

Chemical weapons

Italy ratified the CWC with Law 18 November 1995, n.496; additional legislation was included into Law 4 April 1997, n.93 and Decree of the President of the Republic 16 July 1997, n. 289.

Biological weapons

Italy ratified the BTWC with Law 8 October, 1974 n.618.

Technical Assistance to Other States

Italy is ready to consider providing assistance, as appropriate, to states lacking the legal expertise and/or technical and financial resources to fulfil the provisions set forth by Resolution 1540.

Italy supports co-operative threat reduction programs with other countries, such as the G-8 Global Partnership initiative, aimed at promoting WMDs destruction as well as control and security of sensitive materials, related facilities and expertise. These programs are additional tools to deal with disarmament and non-proliferation issues as well as to strengthen the fight against terrorists seeking to acquire WMDs.

Italy has already committed 7.7 million Euro to the Russian Federation to build infrastructures required for a CW destruction facility in the area of Schuch'ye, and is about to provide additional 5 million Euro in 2004-2005 for the same purposes.

In the framework of the G8 Global Partnership, Italy committed 1 Billion Euro over 10 years to implement projects aimed at elimination of WMD and related materials. In November, 2003 Italy and the Russian Federation signed two agreements respectively aimed at building a CW destruction facility in Pochep, Briansk Region, and at dismantling Russian decommissioned nuclear submarines.

In the year 2004 Italy has been providing support to the IAEA Nuclear Security Fund with 116,500 USD, for programs aimed at security of nuclear and radioactive sources in the former Soviet Union. In the same year Italy provided also 105,000 USD for technical co-operation. Additional 21,000 USD have been provided in 2003 and 2004 to fund the CEG (Contact Expert Group).

Italy has already provided advice on the implementation of the CWC to other States Parties, either bilaterally or in conjunction with the OPCW Technical Secretariat.

COMMENTS IN RELATION TO THE SPECIFIC ISSUES RAISED BY UNSC RESOLUTION 1540

Operative Paragraph 1

"Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery"

Italy does not provide any form of support to either States or non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. The Italian law, as well as relevant international treaties and agreements to which Italy adheres, strictly prohibit any such support.

Operative Paragraph 2

"Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them"

Relevant Italian legislation prohibits and criminally prosecutes any activity linked to proliferation of WMDs, their means of delivery and related materials, in particular for terrorist purposes. Extraterritorial application of the above legislation is also foreseen for Italian citizens acting abroad.

Those provisions stem from Italy adherence to relevant multilateral treaties and agreements in the field of disarmament and non-proliferation, and are fully enacted in the Italian national law through the related ratification instruments.

After 11 September 2001, additional measures - specifically designed to counter WMDs proliferation and terrorist threats - have been envisaged and are currently under approval: see reply under Operative Paragraph 3 (a).

Italy's experience in combating terrorism and organized crime has led to develop a comprehensive set of laws and regulations able to ensure effective implementation of Operative Paragraph 2. Furthermore, Italy is a party to all the 12 UN Conventions on international terrorism.

Concerning WMDs

Italian Law 9 July 1990, n.185 deals with armaments export, import and transit and explicitly covers also WMDs: para 7 of art. 1 foresees general prohibitions concerning, in particular, biological, chemical and nuclear weapons.

In case of violations, Law n. 185/1990 introduces financial sanctions up to five tenths of the value of each contract and imprisonment up to 12 years.

Concerning dual-use items

Italy - as an EU member State - fully complies with, implements and enforces EU regulations on export controls of dual-use goods and technologies (EC Regulations nn. 1334/2000 and 1504/2004), which are directly enacted in the Italian legislation. On this issue, reference is therefore made to the EU Report to be transmitted to the Special Committee separately.

In cases of violations, Italian Legislative Decree 9 April 2003, n. 96 foresees financial sanctions and penalties up to 6 years imprisonment.

More detailed reference to dual-use materials and technologies will be given in the reply under Operative Paragraph 3 (d).

Concerning the relation between WMDs and terrorist activities

Italian Law 15 December 2001, n. 438 on "countering international terrorism" has enlarged the list introduced by law n. 110/1975 in order to include also biological and radiological weapons and agents.

Law n. 438/2001 also criminalizes the financing of both international and domestic terrorist activities. Updating article 270-bis of the Italian Criminal Code, it provides that "anyone promoting, establishing, managing or financing organizations whose goal is to perform acts of violence for the purpose of terrorism or subversion of the democratic order shall be liable of imprisonment from 7 to 15 years". It further states that "anyone participating in the above organizations shall be liable of imprisonment from 5 to 10 years".

Law n. 438/2001 finally specifies that "the crime of terrorism shall also apply when acts of violence are directed against a foreign state or an international organization or institution". Providing assistance to persons involved in the above activities is foreseen as a criminal offence too, and is punished by imprisonment up to 4 years.

These provisions can be applied with regard to transfer, trade and acquisition of WMDs, their means of delivery and related materials for terrorist purposes.

Operative Paragraph 3

"Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport"

As the issue sub Operative Paragraph 3 (a) also covers areas falling under EU competence, reference is made to the EU Report, to be transmitted to the Special Committee separately.

1) Fissile materials and radioactive sources are subject to a three-tie control system:

- Security control under the provisions form the EURATOM Treaty (Italy is a party to EURATOM Treaty and fully complies with obligations set therein regarding declaration and accountability);
- Safeguards controls under the NPT/IAEA provisions;
- Safety and sanitary protection controls stemming from the Italian national control system.

The "Agency for the Environment and Territory Protection" (APAT) is the Italian Authority acting as technical point of contact with relevant international bodies in charge of security controls under EURATOM Treaty and safeguards controls under NPT/IAEA.

At the national level, Italian Law n. 1860 of 1962 has introduced the obligation to declare any detention by Italian users of such materials and to keep strict accounting for them. Failure to comply with this obligation is sanctioned financially and with imprisonment up to 2 years.

Italian Legislative Decree n. 230 of 1995 has introduced further obligations of pre-emptive declaration of any import of radioactive material for commercial purposes, as well as the need for pre-emptive authorization, inter alia, for the following industrial activities:

- use of radio-active materials;
- import and export of radio-active goods and materials;
- radio-active wastes disposal and collection;
- production using also radio-active materials.

2) Italy has established a national licensing system for production, possession or use of chemicals included in schedule 1 of the CWC, and is already fully implementing the reporting requirements of all chemicals established by the CWC.

Concerning the CWC the Italian Law 18 November, 1995, n. 496 and Law 4 April, 1997, n. 93 set forth a general obligation prohibiting the use, processing, retention, purchase, sale, transfer etc, of Schedule 1 chemicals. Further obligations have been also introduced regarding the handling of chemicals listed in other Schedules of the CWC. These obligations include providing to the Ministry of Productive Activity (MAP) the relevant data and information, granting access to the inspected plant sites and fulfilling accounting and recording obligations for listed chemicals.

Violations of the above mentioned norms are sanctioned both financially (fines up to 250,000 Euros) and with imprisonment up to 12 years.

Ongoing Action

An additional bill is at present under approval. It foresees - inter alia - further sanctions for illicit trafficking of chemical weapons with subversive and/or terrorist aims. The same bill also deals with biological weapons and extends the prohibitions and sanctions applied to the proliferation of chemical weapons also to biological weapons.

The bill foresees that violations of the aforementioned norms be sanctioned both financially and with up to 20 years imprisonment. Life imprisonment is foreseen when such violations have, also at international level, terrorist goals.

"(b) Develop and maintain appropriate effective physical protection measures"

Italy is a party to the Convention on the Physical Protection of Nuclear Materials (CPPNM), which was ratified with Law 7 August, 1982, n. 704. The Italian Authority competent for the implementation of CPPNM provisions and obligations is the "Inter-Agency Committee for Physical Protection", composed of representatives from the Presidency of the Council of Ministers, the Ministry of Productive Activities, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Defense and APAT.

The Committee is entitled to evaluate and adopt physical protection plans (PPP) prepared for any plant where radioactive and fissile materials are detained. These plans must comply with provisions set forth by the IAEA INFCIRC/225.

APAT is tasked to control the implementation of these plans and to verify reliability and effectiveness of the related measures, as well as their consistency with the IAEA INFCIRC/225.

"(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law"

Consistently with obligations stemming from Italy's adherence to all international export control regimes, Italian legislation enforces strict border controls aimed at preventing and disrupting illicit trafficking in WMDs, their means of delivery and related materials.

The Italian Ministry of Interior is the competent authority for border controls policies, and co-ordinates the activities of the other involved national administrations (Police forces, Customs Agency, Italian Navy, Port Authorities).

In order to effectively counter illicit trafficking, Italy supports enhanced international co-operation - such as in the framework of the "Proliferation Security Initiative" - aimed at strengthening identification, control and interception of illegal trade in WMDs, their means of delivery and related material.

Both within the EU framework and in its national capacity, Italy has supported and welcomed the inclusion of an anti-terrorist clause in each of the export control regimes.

Ongoing Action

Concerning the issue of brokering, in 2003 an Inter-agency task force has been appointed with a view to adapting the Italian Legislation to the provisions of the EU Common Position n.468/03 on arms brokering.

"(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations"

As export controls of dual use items fall within EC competence, reference is made to the EU Report, to be transmitted to the Special Committee separately.

EC regulations nn. 1334/2000 and 1504/2004 provide the framework for all export controls of dual-use materials and technologies. The Italian Legislative Decree 9 April 2003, n.96 has adapted the Italian legislation accordingly, thus ensuring implementation and enforcement of the above EC regulations.

In particular, Legislative Decree 96/2003 has set appropriate and effective procedural rules for issuing export authorizations, for implementing controls and enforcing administrative sanctions and penalties, up to 6 years imprisonment.

In addition, on 4 August 2003 the Ministry of Productive Activity passed a decree setting a list of countries of destinations towards which export of certain dual-use issues requires a general national authorization.

Concerning financing and financial transactions related to activities envisaged in Operative Paragraph 3 (d), Italian Law 5 July 1991, n. 197 - as amended by Legislative Decree n. 56/2004 - already allows for appropriate screening and control of all transactions.

Pursuant to the aforementioned EU regulations and national Italian laws and procedures, the Italian Customs Agency implements and enforces appropriate, effective and strict controls at the EU external borders checkpoints, where necessary, in close co-operation with other relevant Italian Authorities.

Operative Paragraph 5

"Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons"

As a State Party to all multilateral instruments in the field of disarmament and non-proliferation, Italy does not consider implementation of Resolution 1540 as either conflicting with obligations stemming from NPT, CWC, BTWC or in any way altering responsibilities of the IAEA and the OPCW.

Operative Paragraph 6

"Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists"

As indicated in the replies under Operative Paragraphs 2 and 3 (d), Italian national legislation on export controls of WMDs, their means of delivery and related dual use items includes control lists mirroring those adopted by Australia Group (AG), Missile Technology Control Regime (MTCR), Nuclear Suppliers Group (NSG), the Wassenaar Arrangement (WA) and the Zangger Committee (ZC), as well as control lists used in the EC framework.

Italy is strongly committed, both at a national level and as an EU Member State, to strengthening export control policies and practices within its border and beyond. In the framework of the export control regimes, Italy supports the ongoing efforts to raise their standards, in order to respond timely to new threats, as well as to scientific and technological developments so as to achieve a higher degree of security.

Operative Paragraph 7

"Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions"

Italy is ready to consider providing assistance, as appropriate, to states lacking the legal expertise and/or technical and financial resources to fulfil the provisions set forth by Resolution 1540.

Italy has already been providing such assistance bilaterally as well as through EU co-operation programs in those areas (for instance export controls) falling under EC competence.

Operative Paragraph 8

"Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons"

In December 2003, under the Italian Presidency, the European Council adopted the Strategy against the proliferation of WMDs; earlier, in November 2003, a Common Position on the universalization and strengthening of multilateral agreements in the field of non-proliferation of WMDs and their means of delivery had been adopted.

The EU Strategy and the Common Position aim at promoting the universalization and full implementation of relevant multilateral treaties and agreements in the field of disarmament and non-proliferation.

Italy is actively engaged in promoting implementation of the above EU documents, including through ad hoc démarches in countries that have not yet adhered to those multilateral instruments.

"(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties"

Italy has already introduced, implemented and enforced a wide range of legislative measures to ensure compliance with the commitments and obligations under the key multilateral non proliferation treaties, in order to prevent the proliferation of WMDs and their means of delivery and the risk of their diversion for terrorist use. For further details see reply under Operative Paragraph 2.

"(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes"

Italy provides full support to the aims and activities of the IAEA, both as a State Party and a member of the Board of Governors.

Italy provides full support to the aims and activities of the OPCW, both as a State Party and a member of the Executive Council; such commitment is also shown in the Italian support to promoting challenge inspections in the framework of the CWC.

As for the BTWC, Italy is fully committed to strengthening the Convention, in particular through promoting the establishment of an effective verification system. Italy hopes that the 2006 Review Conference may adopt relevant decisions in that respect.

"(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws"

Consistently with the EU position, Italy considers it important to foster the dialogue with national industry with a view to reinforcing awareness of dangers related from WMDs proliferation and adopting common actions to effectively counter this threat.

Italy is fully committed to work with and inform industry and the public regarding their obligations stemming from multilateral treaties and agreements on non-proliferation.

To this end, the Italian Ministry of Productive Activities (MAP) co-operates on a regular basis with interested companies and relevant industrial associations, as well as with other relevant Public Administrations. An "information forum" in the specific field has been activated by the MAP and holds regular meetings.

The MAP also disseminates relevant public information on such issue through its website, publications, seminars and leaflets.

Operative Paragraph 9

"Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery"

Italy has always supported dialogue and co-operation in the area of disarmament and non-proliferation. In particular, appropriate co-operation with the UN and relevant international organizations will help ensuring a successful outcome of the global fight against proliferation.

Operative Paragraph 10

"Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials"

Italy actively participates in the Prohiferation Security Initiative (PSI) since its launching in May 2003. PSI is aimed at helping prevention and interdiction of illegal procurement and trafficking activities in WMDs and related materials and technology. The PSI "Statement of interdiction principles", agreed in Paris on 4

September 2003, clearly indicates that all action must be consistent with national legal authorities and the international law. Italy has actively carried out outreach efforts to broaden international consensus on PSI goals.

Co-operative threat reduction programs aimed at destroying existing WMD stockpiles, such as in the framework of the G-8 Global Partnership, are additional tools to deal with disarmament and non proliferation issues as well as to strengthen the fight against terrorists seeking to acquire WMDs. Italy is fully involved in the G8 Global Partnership initiative since its launching at the G8 Kananaskis Summit in 2002.

Roma, 27 October, 2004